

The Manasquan Planning Board held a regular meeting on Tuesday, November 13, 2012 at 7PM in the Borough Hall, 201 East Main Street, Manasquan, New Jersey. Geoff Cramer read the Open Public Meeting statement. Chairman John Burke called the meeting to order and asked everyone present to please stand and salute the Flag. He then asked the secretary to call the roll.

ROLL CALL – BOARD MEMBERS PRESENT:

Mayor George Dempsey, John Muly, Patrick Callahan, Joan Harriman, Neil Hamilton, John Burke, Leonard Sullivan, Peter Ragan, Mark Apostolou

BOARD MEMBERS ABSENT:

Councilman Owen McCarthy, Michael Sinneck, Jay Price

PROFESSIONALS PRESENT:

Geoffrey S. Cramer – Planning Board Attorney

Albert D. Yodakis – T & M Engineering – Planning Board Engineer/Planner

APPLICATION #25-2012 – Sass, Jeffrey and Dina – 82 S Jackson Avenue – Block: 132 – Lot: 5, 6 – Zone: R-2 – This applicant lost their house due to the Storm and request to pull their application without prejudice. This is being withdrawn because the house was destroyed during the Storm. Mayor Dempsey asked if the Board incurred any expenses toward this application. Mr. Cramer said the Zoning Officer is in the audience tonight. Dick Furey said he spoke to Mrs. Sass after the Storm and the proposal now is going to be to demolish the house and build a new house. The new house will fully conform. George asked again if the Board had spent any money on fees. Dick said there was never a TRC meeting and there was no Engineering cost incurred. Mayor Dempsey said then he is fine with it if the Borough has not expended any money. John Muly voted to accept the application to be withdrawn without prejudice, seconded by Leonard Sullivan, all in favor none opposed, all in favor none opposed. The Board voted to refund their money to them without penalty.

APPLICATION WITHDRAWN WITHOUT PREJUDICE

APPLICATION #22-2012 – Bostel, Frederick and Marlene – 49 Second Avenue – Block: 166 – Lot: 5 – Zone: R-2 – Mr. Cramer swore in Kevin Bostel, son of the applicant and attorney, Frederick Bostel owner/applicant, Al Yodakis, T & M Board Engineer/Planner, Frank Angelo, builder for the applicant. Mr. Angelo is the owner of Angelo Construction and he gave his address as 1125 Manito Road, Manasquan, New Jersey. Mr. Bostel explained his application to the Board. He said they are proposing to demolish the existing house and construct a 2 ½-story new home. They are asking for minimal relief on the front, side setback and the setback for the accessory building to the rear of the house. Kevin Bostel said they are not seeking any Variances that do not presently exist since they owned the house. He stated the proposed construction is consistent with the houses in the neighborhood. He had some photos of some of the other houses which were marked into evidence as A-1, A-2, A-3, A-4, and A-5. The pictures are of two houses to the north of the

Bostel's showing that they are closer to the property line. Also, showing the front yard averaging of other houses on the Street. John Burke asked if 4 Stockton Avenue was noticed for this application and Mr. Cramer said yes they were. John Burke had to step down because of a conflict of interest. Mr. Muly stepped in as Chairman. Board members making comments or asking questions were: Mayor Dempsey, Joan Harriman, John Muly, Lenny Sullivan, and Mark Apostolou. Lenny was not in favor of the front yard setback and Neil Hamilton agreed with him. Mayor Dempsey said he has a problem with the setback and the side yard also. You are starting with new construction and you can meet the side yard requirements both ways, you can meet the front yard setback average and he personally couldn't vote for this, if it was a hardship and they couldn't get to the five-feet he could understand and deal with that but here you have 13-feet and you only have to move a little bit to meet the requirements and the same thing with the front yard setback. You are asking for 26-feet where only 20-feet is required, so if take the 3-feet and push it back to where it belongs then you would still have 23-feet in the back. Kevin said he agrees with Joan's suggestion in doing a new foundation and moving the house over, but the 3-feet is very important to them in front because of the unfortunate situation, if you sit in their backyard it's like a wall right in front of you. George said 20-feet away. Kevin said yes but we are still sitting in the backyard and we spend a lot of time in the back yard and in addition to his house the rear yard neighbor has an air conditioning compressor 3-feet from the property line which is not allowed in the current zoning law so any closer we are in the back we are that much closer to those things that are interfering with our enjoyment of the property. Mayor Dempsey said part of the Board's goal is to get houses more conforming. So, as the next house on either side of you comes up, they are going to want to be at 14-feet. That's not our goal; our goal is trying to make the Town better. George said the rest of the Board may agree with you, that's my opinion. Mr. Bostel said as Kevin his son said the side is not that important but the front is very important to them, they would like to stay with 14.77-feet. Mr. Cramer asked the applicant if he was prepared to stipulate that he would provide conforming side yard setbacks as well as a new foundation. Mr. Bostel said yes if they could keep the front of the house where it is. Mr. Muly said he agrees with the Mayor, we are only asking you to move back three more feet, he doesn't see where there's that much of a difference, you would still have 23-feet in the backyard. Kevin Bostel said under normal circumstances, the house in the rear is right on top of us, the air conditioning unit is running 24 hours a day in the summer. John Muly asked how old the house behind them was and they said about the same as their house. John said so it was before the current zoning regulations existed. John said so they have a front yard not a back yard and we can't do much about that, because it's there. Joan asked if they would be willing to go back a foot and one-half or two-feet. Lenny said I understand your issue but you are telling me the air conditioner would bother you less with 3-feet more room. You still have a large back yard and we're only talking about this much more room. Kevin Bostel said it creates a boxed in effect back there with the houses that close. Joan said if you plant arborvitae you won't even hear it and you won't see it. Peter Ragan asked if they purchased their house before or after that house behind them was built. Mr. Bostel said after. Mr. Ragan said so you knew it was 3-feet off the property line when you purchased. And, your garage is only 2 1/2-feet off of his property line. These things were all evident for years. George Dempsey said let's continue on with the application, we've spent 20 minutes arguing over 3-feet, no one is moving so let's move on. John Muly asked what else is left

for discussion. John Muly said so where we are right now as far as the setbacks are concerned, you can take care of the side setbacks correct. So that would be conforming, you won't need a Variance for that. The accessory building in the back will stay as is with just an addition toward the front of it; you are making it 6-feet deeper. Mr. Bostel said yes, it's not a regular garage. Now it is 12-feet wide by 10-feet and they are adding 6-feet to the length so it would be 12 X 16-feet. Mark Apostolou asked Al Yodakis about the drainage and the fact that this looks like it's an expanse of a non-conforming Use. Al said they do need to do a grading plan and they have to conform with the Borough's Storm water regulations, it wouldn't be an expansion of an existing non-conforming, the use is conforming so it's still a single-family dwelling although they are increasing the square-footage, this does not kick us into the D-Variance or any of those types of issues. It really is just the setbacks in this case. The application really comes down to the front yard setback. Mayor Dempsey said the other question, if we are done with the outside, when I look at your plans I see a six bedroom house. You have a den with a walk-in closet, a complete bathroom with two sinks on the first floor and on the third floor that's supposed to be a loft space you have another complete bathroom including a bathtub, to me that's two more bedrooms, I see six bedrooms here. Mr. Bostel said the first floor is set up so that when his parents are older they can live on the first floor. George asked why it is marked a den/office, that's a bedroom. So that makes it a six bedroom house. Mr. Bostel said yes in the future it could be a six bedroom house but it's not going to be a six bedroom house now. George said he feels deceived. Mr. Bostel said it is not our intention to deceive anybody. Patrick Callahan made a motion to open the meeting to the public, the motion was seconded by Mark Apostolou, all in favor none opposed.

There was no public participation. Patrick Callahan made a motion to close the public portion of the meeting, the motion was seconded by Leonard Sullivan, all in favor none opposed. Kevin Bostel gave his closing testimony.

Lenny Sullivan said he is not in favor of the 14-feet, he would be open to the front yard average, he thinks there is enough room to move the house back and still have plenty of room, as Mr. Ragan pointed out the house was there when you bought it, you knew what was in the backyard. Neil Hamilton said he agrees with Lenny that we have to move the house back.

Neil Hamilton made a motion to approve the application with moving the house back. The motion was seconded by Leonard Sullivan.

Board Members Voting Yes:

John Muly, Patrick Callahan, Joan Harriman, Neil Hamilton, Leonard Sullivan, Peter Ragan

Board Members Voting No:

Mayor Dempsey, Mark Apostolou

APPLICATION APPROVED

RESOLUTION #21-2012 – Tomasso, Raymond – 520 Brielle Road – Mayor Dempsey made a motion to memorialize the Resolution, motion was seconded by Patrick Callahan.

Board Members Voting Yes:

Mayor George Dempsey, John Muly, Patrick Callahan, Joan Harriman, John Burke, Leonard Sullivan and Peter Ragan

RESOLUTION MEMORIALIZED

RESOLUTION #22-2012 – DePinto, Anthony and Yvette – 162 First Avenue, 161 Beachfront – Mayor Dempsey made a motion to memorialize the Resolution, the motion was seconded by John Muly.

Board Members Voting Yes:

Mayor George Dempsey, John Muly, Patrick Callahan, Joan Harriman, John Burke, Leonard Sullivan and Peter Ragan

RESOLUTION MEMORIALIZED

Minutes of the Regular Meeting of October 9, 2012 – John Muly made a motion to approve the minutes; the motion was seconded by Joan Harriman, all in favor none opposed.

MINUTES APPROVED

A motion was made by Neil Hamilton to approve the Vouchers; the motion was seconded by John Muly, all in favor none opposed.

PAYMENT OF VOUCHERS APPROVED

Mayor Dempsey made a motion to open the meeting to the public; the motion was seconded by Patrick Callahan, all in favor none opposed.

Terrance Hegel – 50 Pearce Avenue – He said he is a Manasquan resident and has a house under construction who's foundation is a foot under water. He wanted to get some clarity as to will there be any increase in height or new measurement of the house height, maybe from the base flood elevation. Something so that we can proceed with this house. He understood that Mr. Furey was going to talk to the Board first so maybe he could listen to that and then come up with some more comments. John Burke said certainly.

Richard Furey – Zoning Officer came forward to give a presentation. He addressed the possibility of providing some type of relief for people who have a non-conforming structure to raise that above the base flood elevation. We talked about raising the house but the question came up about raising decks and porches. We were going to further discuss that, he actually had it on for discussion with the TRC for this meeting; unfortunately that meeting had to be cancelled. But, it seems there were so many houses in Town that were built originally above the BFE flooded by at least a foot or two-feet of water. The request is that these existing houses can they be raised up above the BFE which would mean possibly that there would be a height violation. The question is can we approve something like this administratively or would each particular case have to come before the Board for in this case a height Variance. In addition to that we have several applications that have come before the Board, houses that are in the flood zone, and the Board imposed a certain height restriction. There was one he remembered the Bagheri application that's Fourth and Brielle Road, where the Board imposed a 30-foot maximum building height. As you know Fourth and Brielle is under a flooded condition any time you have a moon high tide. I would think that applicant is probably going to want to come back before the Board to get some additional relief on the height. So, he can bring the entire building up to possibly a foot or two above the base flood elevation. We have had discussions over at the DCI building today and Neil and he spoke about it and he suggested possibly I come to the

meeting tonight and maybe we can discuss this further and maybe we can in some way maybe resolve this and offer some relief to the existing homeowners that have been impacted by the storm. This would only imply to houses within the flood zone in the A-1 Flood Zone. Those that are not he doesn't think we should offer any advantage to them, but he would like to open it to discussion by the Board and see what your feelings are. Mayor Dempsey said he thinks that a pre-existing house that is below the flood zone but is at the 35-feet, we should make a provision to let them bring it up to the flood zone and exceed the 35-feet by no more than 2-feet. A house that's new to exceed the flood zone height that would have to be a Variance. Pre-existing conditions is one thing and new construction is something else. Dick said whatever we do we are going to have to do it by Ordinance. Dick said the question came up is there any way we can do this administratively or will each applicant have to come to the Board for Variance relief. George said that's what the Board is going to talk about tonight, if we do it by Ordinance you can do it administratively, either that or we do it one case at a time. George said the Federal Standard is a number, if they want to exceed that number then they would have to come for a Variance. Dick said in the A-1 Flood Zone the base flood elevation is measured to the lowest finished floor. Lenny asked what if they wanted to go higher than that. George said then they would need a Variance, otherwise everybody would be carte blanche, everybody would be 38-feet high all of a sudden. Al Yodakis said another wrinkle in this is the way our Ordinance is written is building heights on non-conforming lots is up to the discretion of the Board, it's not a clear 35-foot. Dick said a new house on a non-conforming lot is capped at 30-feet, I approve that administratively. Anything above that has to come to the Board. Dick said we are here for discussion, we don't have to make a decision, I wouldn't want to see a decision made. But, it's something we should think about because he really doesn't know how many houses in Town got impacted by this Storm but he assumes it's a great number and if we can somehow resolve some of these things administratively it's going to save a lot of time on the Board's behalf. There was additional discussion between the Zoning Officer and Board members regarding the height of houses in the Flood Zone. Mayor Dempsey told Dick Furey that he was going to have a Committee made up and they are going to meet next Tuesday. The Committee members will be, Mark Kitrick, our Borough Attorney, Owen McCarthy, Chris Rice wants to come and express his views, myself and he would like to get one more person from the Planning Board. Neil Hamilton was suggested to be on it by the Board members. Mark Apostolou asked that the Committee has a consultation with FEMA prior to meeting. He would like to see the Committee to invite the Governor and FEMA to participate in a meeting. Mark asked if the 35-foot height is BOCA Code. Dick Furey said years and years ago the way the 35-foot height came about was the longest ground ladder for fighting fires was roughly a 35-foot ground ladder. That ladder would just reach underneath that 3rd floor window. That's how the 35-foot height came about. George said we have people that want to start re-building right now, and we may have to wait to meet with those people for six or eight months from now. Terrance Hegel asked if he could have the floor for a minute. He said he is a Manasquan resident and a business owner here, he owns Atlantic Modular Builders, he has built six houses in Manasquan and has one under construction. He has been before this Planning Board at least five times in the last couple of years. What he has seen in the four houses he has built east of the canal, all well above the minimum flood zone, they were all elevation 9 he is typically 18 to 24-inches above that. Every single one of those houses

took 24-inches of water above the 100-year flood elevation. So, if the height of your flood elevation is 9 and again it's just a random number that means all the houses east of the canal and he went back and measured the flood elevation certificate and also did a laser level, they are all 24-inches above the 100-year flood. So, it didn't matter if you had a house that was built last week. If your builder didn't take extra precautions you flooded, and sometimes you flooded over the finished floor and sometimes you flooded just into the insulation and other stuff under the floor. It's very traumatic and very, very expensive. There are people who are going to be misplaced; there are people who have to worry about mold, so on and so forth. If you haven't been through it, I know you have seen the faces and your neighbor's have but if you actually haven't been through it it's pretty tough. What I hear from the Board and what I disagree with is you're building a brand new house and you just saw that you had two-feet of water over the 100-year flood and you want to raise that house out of just common sense, why wouldn't you get relief on the height when your neighbor who might be a block away and is not in the flood zone can build at 35-feet with his full house like Joan was talking about, you want to build the same size house. You just have to raise it another 2-feet to get out of the flood zone. In some ways it's unfair to any resident of the flood zones not to allow them to exceed the maximum zoning height limitation. They are not exceeding the overall house; they are only exceeding a zoning regulation that's arbitrary from where you measure it at. So, right now we measure the height of a house below the crown of the road or curb, and that works fine for every house in Manasquan if you are not in the flood zone. If you are in a flood zone it actually hurts you, because you know your house has to be automatically higher than the guy down the Street who is not in the flood zone or the guy west of the tracks. What I would like the Planning Board to think about is to get something together to give to the Council to put in an Ordinance and say if you are in a flood zone your house height is not measured from the curb or the crown it's measured from some base flood elevation. So from elevation 9 which might be two feet higher than the Street, you are not building a house that's any higher than anybody else, they just happen to have a higher foundation. Just like you see in a lot of Coastal areas from South Jersey to South Carolina. You are not penalizing them and you're not giving them anything extra. To tell somebody you are in a flood zone, you can't have 9-foot ceilings, you can't have an attic, you can't have the half-story I think that's short sighted and I think it penalizes homeowners in that particular location and if you are in the flood zone and saw everything wiped out on your first floor and maybe in your crawl space and now you are telling me I can't have an attic, because I don't want to give you any relief on the height, again I think it's penalizing those individuals. Mayor Dempsey said so you are saying then if the flood plane is 9 and they want to go another two so that's 11, so if I'm in the flood plain I can raise it from 9 to 15 and then put my house on it and I'll be 40-feet up in the air. Terrance said he is only talking about foundations. Mayor Dempsey asked where you draw the line. Terrance said instead of measuring the house height from the curb you measure it from the base flood elevation and you are still capped at some overall height. So, we are not asking for taller structures, we are asking to raise foundations so that people don't get flooded. Mark Apostolou said but you said that 9-feet was not sufficient. Terrance said it wasn't sufficient. Terrance said don't you think FEMA is going to change the minimum flood height. Mark said that's exactly why I raised that point earlier that we consult with FEMA. Terrance said he doesn't know how quickly FEMA is going to get these things in order. Terrance said he would like to give an example

of a homeowner who is stuck right now, he has a house at 269 Pine Avenue, the foundation was complete three or four weeks ago, the top of the foundation is at elevation 9 the flood zone over there happens to be at elevation 8, so he built the top of his foundation one-foot above the 100 year flood zone. This is where FEMA tells me the high water is going to be, this is where I built my foundation, and it was under water. To use his homeowner as an example, they are sitting there with a foundation and the house is built in PA waiting to be set and they are in limbo because they are not going to set it where it's at knowing that this could happen again and they are not the only ones so they could come back here and get a Variance but he doesn't think that's the long term solution. He doesn't think every house that wants to re-build and we might have a couple of hundred houses. George asked how tall the house is when he sets it on 9. Terrance said their house was about 34.8-feet, if he sets it where it's at, he feels you should add two courses of block to that foundation, raise it by 16-inches which is going to be 4-inches above where the water level was and they would bust the height limitation by 16-inches. Mark said but if we have another storm in 6 months and it goes to 4-feet above then you are going to be back here making that same argument, because now you are being arbitrary by saying I'm selecting this number. Terrance said his biggest thing is it's not their house, his suggestion is you need to measure the height of the house from something other than the crown of the road. Mark said but that's not going to solve the problem. John Burke said I can see a major problem here. If you are talking about measuring from the BFE and that elevation is 4-feet above the crown of the road, you measure from there and you cap that house at 35-feet, now that house is going to be 39-feet above the crown of the road, and 4-feet or more above all the neighbor's around there. Terrance said if you measure it from the BFE that house is probably going come in at 33-feet instead of 35-feet. You would really have to put the math up on the board. Al Yodakis said in theory what you're saying does make sense. I can't entirely agree with it because this is a pretty complicated situation for a number of reasons. We are not going to solve this tonight; he doesn't think the Committee that is being formed is going to solve it, because we don't know what FEMA is going to. He is assuming the flood zones are going up. He told George not to take him the wrong way, he feels where they are going is absolutely the right way to go. He thinks they do need to address it in the short term because long term he doesn't think they know where they are going. FEMA is definitely going to change the flood elevations, that's his personal opinion he doesn't doubt that. We have BOCA requirements, UCC requirements above 35-feet, also this Board has issues, if we go above 38.5-feet which is the 10% that kicks somebody into a D Variance, so then they are in here having to prove the same thing we would as a Use Variance, unless we were to change the Ordinance. There are a lot of pieces of this that need to be considered from a legal aspect as well as an Engineering aspect. Short term we need to look at kind of a stop-gap measure as to what we're going to do for the people who say I have to get my house up, I'm not looking to expand it, I've got a story and one-half. I've got to get it up. In your case unfortunately if the people were here before the Board previously and we have a Resolution that hard and fast as to what they go up to, I don't see how we get around that without having them come back to us. John Burke said in this case with this house he doesn't see how they can avoid having to come before this Board and he feels Terrance should get an application in as soon as possible. It's going to take time; they will do it as fast as they can. John Muly said a lot of people have come and said they want to raise their houses now, and one of the issues that has come up is the front stoop and front steps are

way into the front setback or right to the street, that's another issue that comes about when you raise something up. George said you can turn some of the porches sideways. He said that's what the Planning Board made him do when he did his house, turn the steps to go sideways because then he met the proper setback. John Burke said that raises of decks and should they be raised with the house and strapped to the house, because that's a lot safer than having a free-floating deck on the ground. Mark said the way the Ordinance is structured right now we have no jurisdiction over the height of a deck. Dick Furey said as long as a deck fully conforms no, but if it's a non-conforming deck yes we do. He said the UCC requires that that deck be attached to the house. George asked Al to explain the 38 goes to a D Variance. If we allow somebody to raise their house to 38-feet because say they have to be at 10-feet, so now they are up over 38-feet. Al said a height Variance over 10% of the permissible height, in every Town I have ever worked in the allowable height for a single-family residence has been 35-feet. So, 38.5-feet is kind of the magic number because it's 110% of that 35. If you go over that it kicks you into a D-Variance, so any height that's 38.5 or above they have to provide the same proofs that somebody would provide to us for a Use Variance. We can't alter that by Ordinance even if we wanted to; we can't supersede that said Mark Apostolou. Al said unless there was a way for us to raise our building height above 35-feet, but he doesn't know that there is a way for us to do that. Mark said we could opt out of the BOCA Code but we don't want to do that. George asked if structurally they had to build any differently exceeding the 35-feet. Al said there are certain heights and he's not that familiar with the Code but when you go above you need to make other stipulations from those higher floors, you need to have fire escapes, or sprinkler systems. He doesn't want it on the record because he needs to look it up but you can, if you got a Variance to build a 50-foot house you wanted to sprinkler it and put in fire escapes and everything else, yes you could probably do that. But you would have to meet all of those Codes, it would be like a Commercial high rise building, you would have to meet all those types of requirements. There was a lot of discussion among the Board members regarding the height of houses in other Towns and how Manasquan can deal with the height issues.

Helen Beth Matyas – 28 N McClellan Avenue - She said a few years ago they lived at 9 Pershing Avenue, they lifted the house, they raised it the base first floor was 9-feet, they went above flood feet so they went 9.10-feet for the first floor. The current owners did flood during this storm; she thinks they got about a foot and one-half of water on their first floor. Their first floor is now gutted. She still thinks 35-feet up towards the Beach is appropriate and 30-feet for our area is still appropriate. She thinks it's an odd storm that we're not going see again. We did raise our foundation; we have a first floor a full second floor with four bedrooms and then a habitable attic. So we have 8-foot ceilings on our first floor, 8-foot ceilings on our second floor, and then the third floor is 7 ½-feet to the peak. Our permitted height was 30-foot to the ridge, we are just under that and she feels that if you raise the height of these homes to 38-feet, it's going to feel like a Town of skyscrapers. Even just raising it a pancake above the existing flood level. George Dempsey said it seems like every 20-years, in '62 we had a very bad storm, '92 was much higher than that one and now 2012 is much higher than '92. Helen Beth asked how high are you going to go. George said I don't know. Helen Beth said she just doesn't want to see a skyscraper Town and George agreed with her.

There were no other comments from the audience. Mayor Dempsey made a motion to close the public portion of the meeting, the motion was seconded by Peter Ragan, all in favor none opposed.

Neil Hamilton made a motion to adjourn the meeting, the motion was seconded by Leonard Sullivan, all in favor none opposed.

MEETING ADJOURNED AT 8:47PM

Respectfully Submitted,

**Mary C. Salerno
Planning Board Secretary**